

2006

IMPORTANT NOTICE REGARDING ILLINOIS ESTATE TAX AND FACT SHEET

For decedents dying on or after January 1, 2005, the state death tax paid to any state is no longer a credit, in whole or part, against the Federal Estate Tax. The state death tax has become a deduction against the Federal Gross Estate (See 26 USC 2058). The Illinois Estate Tax is still computed with regard to the Federal Taxable Estate. However, the amount of the Federal Taxable Estate will appear after deductions allowed on the Federal Return resulting in an inter-related computation of the Illinois tax and corresponding deduction. The amounts on Lines 3 and 5 of the Federal Form 706 without the State Death Tax Deduction will be needed to compute the Illinois Estate Tax. The Attorney General's Office has acquired a computer program that will make that computation, rather than the preparer performing numerous trials to obtain a figure. The preparer may contact our Office by mail or phone (Chicago 312-814-2491 or Springfield 217-524-5095), or may access the program at our website (www.illinoisattorneygeneral.gov). To make the computation, the amounts of the Tentative Taxable Estate (Line 3a, Form 706) and the Taxable Estate with adjusted gifts (Line 5, Form 706) without the State Death Tax Deduction are required. Please contact our Office or website for further information. Please note that the Illinois tax is still limited to an amount no larger than would have reduced the Federal tax after the Unified Credit to \$0. A separate program will be available for 2006-2008 decedents.

For decedents dying on and after January 1, 2003, important changes have occurred in the computation of the Illinois Estate Tax. The Illinois Estate Tax is no longer linked to the "allowable" State Death Tax Credit on the Federal Estate Tax Return. Instead, the Illinois Estate Tax for such decedents is the full amount which can be computed under the State Death Tax Credit Table (Table B of the instructions for the Federal Estate Tax Return, Form 706) without recognizing the reductions and eventual termination of the Credit contained in recent federal legislation.

Under this Federal Legislation enacted in 2001, the allowable Credit was reduced by 25% for 2002 decedents, by 50% for 2003 decedents, by 75% for 2004 decedents, and eliminated for decedents dying on or after January 1, 2005. The newly enacted Illinois amendments define the Illinois Estate Tax as the full amount which can be calculated without considering either the reductions or termination of the Credit. For 2006 decedents, the "exemption equivalent" is \$2 million. The Illinois Estate Tax will still follow the Federal "exemption equivalent" until the Federal exemption exceeds \$2 million. At that point for persons dying in 2009, the Illinois exemption will remain \$2 million. Under current Federal law, for persons dying in 2010, there will be no Illinois Estate Tax due to the complete repeal of the Federal Estate Tax; and for persons dying in 2011 or after, the Illinois Estate Tax will return to the system in effect before the Federal legislation enacted in 2001 as that 2001 law will "sunset".

Also, for decedents dying on or after January 1, 2003, the Illinois tax is ONLY the Illinois proportionate share of the amount calculable for the former State Death Tax Credit Table. The former calculation involving the subtraction of taxes paid to other states has been eliminated by legislation. Please see Schedule A on the Illinois Estate Tax Return (Form 700).

A few examples will help to clarify:

Ex. 1

12-31-2002 decedent with estate of less than \$1 million \$0 Illinois Estate Tax

01-01-2003 decedent with estate of less than \$1 million \$0 Illinois Estate Tax

01-01-2004 decedent with estate of less than \$1.5 million \$0 Illinois Estate Tax

01-01-2005 decedent with estate of less than \$1.5 million \$0 Illinois Estate Tax

2006-2008 Decedents
\$2,000,000 Exemption Equivalent

01-01-2006 decedent with estate of less than \$2 million \$0 Illinois Estate Tax

Ex. 2

01-01-2005 decedent with estate of \$1,600,000 \$31,034 Illinois Estate Tax from program
(limited by amount that would have reduced Federal Tax to \$0)

\$31,034 State Death Tax Deduction on Federal Return

01-01-2006 decedent with estate of \$2,100,000 \$31,507 Illinois Estate Tax from program
(limited by amount that would have reduced Federal Tax to \$0)

Ex. 3

01-01-2005 decedent with estate of \$2,000,000 \$92,910 Illinois Estate Tax from program
(not limited by Federal Tax)

\$92,910 State Death Tax Deduction on Federal Return

01-01-2006 decedent with estate of \$2,700,000 \$143,333 Illinois Estate Tax from program
(not limited by Federal Tax)

Ex. 4

01-01-2005 decedent with estate of \$2,000,000 with 50% in Illinois and 50% in Florida \$46,455 Illinois Estate Tax
(even though Florida imposes no State Death Tax)

For persons dying prior to January 1, 2003, the tax is based on the allowable State Death Tax Credit against the Federal Estate Tax. In general, the Federal Taxable Estate plus adjusted gifts must exceed the exemption equivalent before any Illinois tax can be due. The exemption equivalent is \$625,000 in 1998, increasing in steps each year to \$1,000,000 by 2002. The Federal Return should be completed first and the numbers may be simply carried to the Illinois Return.

The Illinois Attorney General administers the Illinois Estate Tax. The Illinois Estate Tax Return is Form 700 and is present in this site. The Return is filed with the County Treasurer and the Attorney General's Office. For residents of Illinois, the County of residence is the place of filing. The Return has a section for non-residents and is filed in the one County having the greatest value of Illinois property. For Cook, DuPage, Lake, and McHenry Counties, the Attorney General's copy **along with a copy of the Federal Return** are filed at Office of the Attorney General, Revenue Litigation Bureau - Estate Tax Section, 100 West Randolph Street, 13th Floor, Chicago, Illinois 60601. For all other counties, The Attorney General's copy **along with a copy of the Federal Return** are filed at Office of the Attorney General, Revenue Litigation Bureau - Estate Tax Section, 500 South Second Street, Springfield, Illinois 62706. Payment of all taxes, penalty and interest are made to the County Treasurer. The tax is due 9 months after death. Extensions are based on allowed Federal Extensions. Further filing and payment instructions are on the Return. A list of all County Treasurers with addresses is at this site.

If a Federal Tax is paid in installments, the Illinois Tax may be paid in installments. Form 4350 is a computation worksheet for installment payments. It is available at this site. Please note that "gross" values are used to determine the percentage subject to deferral; not adjusted values as on the Federal Return.

For persons dying before January 1, 2005, Illinois also has a Generation Skipping Tax and a section that applies to it is on the Form 700. The Tax is incurred when a State Credit is allowable against the Federal Generation Skipping Tax. This only occurs in an "indirect skip" situation.

Please contact the Estate Tax Section, Illinois Attorney General's Office with any questions or problems.

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